

**CHARTER TOWNSHIP OF CHOCOLAY  
ZONING BOARD OF APPEALS  
MINUTES: 3-23-95**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., March 23, 1995 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bill Sanders, Mike Summers, Bob Pecotte, Carol Hicks, and Sam Oslund. Staff member Mark Maki was also present.

II. **PUBLIC COMMENT: NONE**

III. **PUBLIC HEARING:**

- A. Class A #28 Nonconforming single family dwellings in RR-2 zone at 415 Co. Rd. 480.

-Mark Maki reported that an advertisement and written notices were sent out with no correspondence being received. Carl St.Onge, builder was present to answer questions. The owner of the property is Dennis DeVoght. A Zoning map was given to all ZBA members and photography were shown. The property is zoned RR-2 thus requiring one dwelling with minimum of 5 acres and 300 ft. of lot width. Cedar Creek was used to divide 1 from RR-2. This parcel is on the West side of Cedar Creek with approximately 1.84 acres and three dwellings (one single family dwelling and two rental cabins). The owner wishes to replace the existing flat roofs with new pitched roofs on the two rental cabins. Because these buildings are Class B, technically they can't be expanded nor altered. In order to do this the owner must be granted a Class A designation and then a Class A expansion (structural alteration) permit as per section 601 and 604. The builder, Carl St.Onge confirmed that they intend to use a 8/12 roof pitch. The roof will not become a loft dwelling but serve as structural roof only. The negative aspect of the project is that the replacement roof will extend the life of the building. The property had a new septic system installed in 1986 and new furnaces with natural gas.

-Gary Boggs, 415 Co. Rd. 480 spoke indicating that he lived in one of the units and could answer questions about the buildings.

-Chairperson Bob Pecotte closed the public hearing.

IV. **APPROVAL OF THE MEETING MINUTES OF 12-1-94**

A motion was made by Sam Oslund and seconded by Bill Sanders to approve the minutes of 12-1-94 as submitted. Motion passed Aye 5, Nay 0.

V. **NEW BUSINESS:**

1. Class A designation # 28 on dwellings located at 415 Co. Rd. 480.

-A brief discussion was presented with the conclusion that most of the information had already been covered during the public hearing.

-A motion was made by Sam Oslund and seconded by Bill Sanders that a Class A designation for the structures at 415 Co. Rd. 480 be approved based on the following four assumptions:

1. Continuance will not be contrary to public health providing proper septic systems
2. The use and structures should not significantly depress nearby property values.
3. The use was lawful at the time of the May 1977 Ordinance adoption. and
4. No useful purpose would be served by strict application providing a safe septic system is on site due to close proximity of dwellings to one another and Cedar Creek

-The motion passed Aye 5, Nay 0.

2. Class A expansion # 28 (Structural Alteration)

-Mark Maki reviewed the requirements for Class a expansion as per Section 604.

-Carol Hicks questioned if the dwellings would meet proper setbacks. Answer, yes.

-Mike Summers questioned the terminology of "expansion" vrs. "alteration", was this truly an expansion of an existing structure? The discussion that followed concluded that there wa no expanded square footage nor expanded living area to the dwelling but the structural alteration (new pitched roof) was an expansion of the buildings volume or mass.

-A motion was made by Mile Summers and seconded by Sam Oslund that application #28 by Dennis DeVooght for Class A non-conforming use ostructural expansion, as required under Section 604 be granted with the understanding that this is not to be construed as an extension, expansion, or enlargement of use, based upon the application meeting the standards that are:

- (1) That continuance thereof would not be contrary to the public health, safety, or welfare, or to the spirit of this ordinance; and,
- (2) That the use or structure does not and is not likely to significantly depress the value of nearby properties; and,
- (3) That the use or structure was lawful at the time of its inception; and,
- (4) That no useful purpose would be served by strict application of the provisions or requirements of this Zoning Ordinance, oany amendment thereto, with which the lawful nonconforming use or structure does not conform.

This motion is based on findings that it meets the requirements 1-4 of Section 604.

-Motion passed: Aye 5, Nay 0.

**VI. PUBLIC COMMENT: NONE**

**VII. ADJOURNMENT AT 8:00 p.m.**

Respectfully submitted:



Carol Hicks, Secretary

CHARTER TOWNSHIP OF CHOCOLAY  
ZONING BOARD OF APPEALS  
MINUTES: 6-22-95

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30pm, June 22, 1995 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bill Sanders, Mike Summers, Bob Pecotte, Carol Hicks, and Sam Oslund. Staff member Mark Maki was also present.

- II. **PUBLIC COMMENT: NONE**

- III. **APPROVAL OF THE MEETING MINUTES OF 3-23-95.**

A motion was made by Bill Sanders and seconded by Mike Summers to approve the minutes of 3-23-95 as submitted. Motion passed Aye 5, Nay 0.

- IV. **PUBLIC HEARINGS: NONE**

- V. **NEW BUSINESS:**

A. Variance 95-1 Togo's Inc. Joe and Ann Fountain, 100 N. 3rd St., Marquette, MI. Variance setback request for property at corner M-28 and US 41.

Mark Maki reported that the property is presently zoned C-2 and is adjacent to some R-3. The variance request is to deviate from the required 30 ft. Setback. The building is planned to be placed at an angle, thus it would be closer at one corner. The only access driveway is from the Holiday Gas station. The building is proposed to be 23 feet setback in front and 15 feet at the rear.

Bob Pecotte questioned the intent of placing on corner at 30 ft. Setback and allowing a variance of 7-8 ft. At the other end of the building. Mark Maki responded that he believed that when placing the front of the building parallel to it's front line the side property line in question is running at an angle, thus getting closer to the building at the rear.

Gary Pompo, Togo's, spoke and indicated that they wished to keep a cluster of trees located on the other side of the building as well as having a drive-in window on the side by the existing garage. The driveway to the parking lot is along that side and thus the request to hold the building tight to the right side of the property.

Paul Uimari, Architect for Togo's spoke indicating that the intent of the variance is to keep the line of trees on the right side and the cluster of trees on the left. The left cluster could be incorporated in and island dividing the driveway to the parking lot.

Bill Sanders spoke in reference to support the landscaping aspect indicating that we want extra vegetation and green spaces.

Tom Wahlstrom spoke indicating that his family has little opposition to the request but, with some reservations if their property was to remain as residential they would like as much separation as possible between buildings. Mark Maki stated that the existing trees are a good buffer.

Cathy Garrow spoke stating that they want to preserve as much natural landscaping as possible.

Mike Summers spoke about getting too far a field with the precedence that can be established with granting any variance, just what is the practical difficulty? The weight

of a green space v.s. Lack of objectives with adjoining owners present and future uses should be considered.

Bill Sanders made a motion to approve variance 95-1 Togo's, Inc. For a setback variance allowing the building to be placed 15 ft. At the South-East corner and 23 ft. At the North-East corner, provided that a vegetation island is established at the center drive between the existing garage and proposed building and that the island and drive are in compliance with the ordinance. In addition the natural buffer between the R-3 and C-2 Zone are to be preserved see (correction 7-27-95 meeting). Second by Sam Oslund.  
Motion passed Aye 4, Nay 1.

B. Variance 95-2 Paul and Marci Thieme, 1895 M-28 East. Request a height variance to permit a detached garage with library above with a height of 30 feet.

Mark Maki reported that two letters were received. Bernard Fine, who owns property to the East opposes the request and indicated so in a letter prepared by Richard Graybill, P.C. Mary Asente, who owns property to the West corresponded that she thinks that if variances such as this are granted then consideration should be given to replacing the ordinance. Mark Maki further reported that the height has been reduced to 28 ft to the top of the Crows Nest and 22 ft to the ridge of the roof. The garage would be setback 25 ft. From the property line. Without the cupola "crows nest" and dormer it would meet our proposed averaging height for ordinances.

Bill Sanders spoke indicating that he would be abstaining from voting due to the fact that his firm designing the garage but, he wished to speak to the issue referring to several past variances that have been granted.

Dax Richer spoke for the owners in that the space is to be used strictly for storage with a 10' X 32' hall down the middle.

Mark Maki spoke indicating that the garage and storage loft would be close to the proposed height averaging if it were not for the cupola.

Paul Thieme spoke indicating that he has volumes of reference materials and wished to have additional space above the garage to store and in inventory them. The space would be used as storage and that the proposal was to try and compliment the existing dwelling roof pitch and design as well as the topography of the area.

Carol Hicks question whether it was to be library or storage space. Paul Thieme indicated that it was strictly that the ZBA needs assurance that it is not a habitable space and was there to be a third floor platform at the "crows nest."

Mike Summers spoke in reference to the practical difficulty.

Carol Hicks made a motion to grant variance request 95-2, Paul and Marci Thieme to allow for a detached garage structure with a steep 12/12 roof pitch whereas the ridge height is not to exceed 22 ft. Not including the vented cupola(crows nest) is not to be a habitable space nor have a third floor platform, thus serving for light and ventilation only. Seconded by Bob Pecotte. Motion passes Aye 4, Nay 0, Abstained 1.

#### VII. UNFINISHED BUSINESS:

The ZBA discusses how to get the Planning Commissions and the Board to address the averaging height variance request that we have made in so much as it seems to be our single most often requested item of business.

#### VIII. CORRESPONDENCE/INFORMATION RECEIVED: NONE

X. **PUBLIC COMMENT:**

Karen Chandler, Director of Planning and Research for Chocolay Township, spoke indicating that she was pleased with the ZBA's thorough and in depth deliberation on variance requests and particularly the landscaping and green island aspects.

X. **ADJOURNMENT: AT 9:00 pm.**

Respectfully submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY  
ZONING BOARD OF APPEALS  
MINUTES: 7-27-95**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:34 p.m., July 27, 1995 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bill Sanders, Mike Summers, Bob Pecotte, Carol Hicks, and Sam Oslund. Staff member Mark Maki was also present.

- II. **PUBLIC COMMENT:** Dan Cook reserved time for Variance 95-3, Randy Duer reserved time for Variance 95-5, Nancy Love reserved time for Home Occupation 95-1.
- III. **APPROVAL OF THE MEETING MINUTES OF 6-22-95.**

A motion was made by Bill Sanders and seconded by Mike Summers to approve the minutes of 6-22-95 as amended. Motion passed Aye 5, Nay 0.

The amendment to the June 22, 95 minutes is as follows: The motion for Variance 95-1 Togo's Inc. "In addition the natural buffer between the R-3 and C-2 Zone are to be installed by August, 1997, or at such time that the R-3 Zoned parcel is developed."

VI. **NEW BUSINESS:**

A. **HOME OCCUPATION 95-1** Nancy Love, 625 Lakewood. Home occupation for a Dog Grooming business.

Mark Maki reported that public notice has been given and that 19 written notices were sent out. Two letters were received and read into the record: Marla Buckmaster, 649 Lakewood July 15, 1995, strongly opposing. Betty Hill, 643 Lakewood, July 18, 1995, opposing. Several phone calls were received questioning the business. Mrs. Flory Bowden who owns the next cottage has no opposition. Inquiries were made with respect to the dog fence that is presently being constructed, "are dogs being boarded?" The dog fence for her own two dogs and the application indicated that there would be no boarding of dogs. Mr. Maki indicated that the applicant would appear to comply with the specific standards of the ordinance.

Nancy Love spoke indicating that her 5 ft. high chain link fence is for her own dogs, grooming would be conducted in her basement, no signs will be posted, and only an occasional UPS delivery.

Mark Maki asked about the fence location, driveway capacity and whether there would be overlapping appointments. The question to the ZBA is whether the character of the neighborhood would be changed with this operation?

Carol Hicks questioned the amount of grooming involved, use of chemicals, noise generated etc.

Bob Pecotte questioned if the neighboring property were to be developed would its value be affected, more or less, because of the dog grooming business? The Township presently has a dog grooming business in a commercial zoned area.

Mike Summers made a motion that Home Occupation 95-1 Nancy Love, 625 Lakewood, Dog Grooming, be approved with the stated conditions that it is for a period of three years, and subject to receiving any written complaint. Seconded by Sam Oslund. Motion passed Aye 4, Nay 1.

The ZBA asked that Mark Maki write a letter to Marl Buckmaster and Betty Hill informing them that the business is to operate by appointment only, inside the home, no signs, no advertisement, for three years and subject to review upon receipt of any written complaints.

**B. VARIANCE 95-3** Cook Sign Co. for a pole sign for US Oil at Shaw's Gas Station, 4027 US 41 South, replace a 7x7 sign with a 6x10 sign, Sec. 804, with current sign setback 1.5 feet, new sign is to be a 0 foot setback.

Mark Maki reported that the existing sign is 7'x7' with 49 sq. ft area and that the proposed new sign is 6' high x 10' wide with 60 sq. ft.. They wish to use the existing sign pole. The new sign will meet the ordinance which sets the maximum area at 100 sq. ft. but, the new width of 10' will place the front of the sign to the property line thus 0 setback variance is required. A letter was received from Don Salo with no objection to the proposal.

Dan Cook spoke indicating that there would be no new pole and that the State of Mich. Dept of Transportation does give permission for signs that even overhang onto the Right-of-way.

The ZBA discussed past cases of sign variances such as Cim, Harvey Oil Walt's Auto, and Negaunee Bank.

A motion was made by Sam Oslund and seconded by Bill Sanders to approve Variance request 95-3 based on past variances along the Harvey highway corridor. Motion passed Aye 5, Nay 0.

**C. VARIANCE 95-4** Cathy Gregorich, 640 Mangum Road Section 401 to allow a dwelling less than 800 sq. ft. at 644 Mangum Rd. due to fire loss 7-95. Existing dwelling foundation is 684 sq. ft.

Mark Maki reported that public notice has been given with 6 letters sent to neighboring property owners. The ZBA has dealt with this property in the past in that the acreage division has been in question. A fire had destroyed the house on the 4th of July and the applicant is requesting to rebuild upon the existing foundation.

Cathy Gregorich spoke indicating that this was the original family homestead and that the economics were such that to rebuild upon the existing foundation was their only option.

Mark Maki indicated that we have never had a variance request to build a home less than 800 sq. ft., it is a rural setting and would not be out of character to the neighborhood.

Sam Oslund questioned how far back from the road is the foundation located. Cathy Gregorich indicated that it was about 100 ft.

A motion was made by Bill Sanders to approve Variance request 95-4 allowing the reconstruction of a home on the existing foundation of less than 800 sq. ft. Seconded by Bo Pecotte. Motion passed Aye 5, Nay 0

**D. VARIANCE 95-5** Randy Duer 300 Foster Creek Drive Section 208 RR-2 District-Subdivide a lot into two lots/one lot address 250 Foster Creek Dr.

Mark Maki reported that public notice was given and that 11 letters were sent out with no correspondence being received. The tax map as provided to ZBA members shows two parcels "A and B" with a house presently located on parcel "A". The highway (US-41) R.O.W. map shows the parcel joins US-41 and Foster Creek Dr US-41 has a high bank thus neither parcel will exit upon US-41. If the 9.9 acres were equally divided into two each would have 4.95 acres and the ordinance requires 5.0 acres.

Randy Duer spoke indicating that he has attempted unsuccessfully to purchase additional land to add to his in order to comply with the 5 acre requirement. Originally he was told that the property was 11 acres and upon conducting a survey it was found to be 9.9 acres with one parcel being 4.7 and the other 5.2, nothing was done intentionally.

Mike Summers asked about the practical difficulty as presented on the application and questioned if it was even necessary to request that the 9.9 acres be evenly divided and that both parcels would still be in noncompliance.

A motion was made by Mike Summers to grant Variance request 95-5 Randy Duer, 300 Foster Creek Dr. allowing the division as presented: parcel "A" with an existing house containing 4.7 acres and parcel "B" containing 5.2 acres. Parcel "A" with the existing house would be the noncompliance. Seconded by Sam Oslund. Motion passed Aye 5, Nay 0

**E. VARIANCE 95-6** Ron Thorley, Superior Fast Lube & Wash at 5063 US 41 South, requests a front setback variance for an addition to the existing Lube/Car Wash building. Current 40 feet. Proposed 30 feet, C-2 requires a 40 foot setback.

Mark Maki reported that public notice had been given and that 6 notices were sent to neighboring property owners. Only one letter from Steve Wahlstrom supporting the request was received. At one time the parcel included the kitchenette apartment building, when the Lube building was sold the land was divided. The request is to build an addition projecting 10 feet out in front of the existing building.

Ron Thorley spoke describing the wash operation he has in mind requires a longer wash and dry tunnel.

Mark Maki indicated that if the business were to expand would more bays be added to the South and would they be requesting an extension to the front and would this infringe upon the Creek setback? Mr. Thorley spoke indicating that he has no plans to expand additional bays to the building.

Sam Oslund asked if it were possible to expand to the back of the building rather than the front? Ron Thorley stated that he has purchased an additional 13 feet at the rear and plans to build a retaining wall to support the lot fill and that even with this the turning radius and approach was tight.

Bob Pecotte questioned whether the ZBA has denied similar requests in the past for highway front setbacks. Mark Maki indicated that basically we have approved similar requests.

A motion was made by Sam Oslund to approve Variance request 95-6 Ron Thorley, Superior Fast Lube & Wash at 5063 US-41 for a 10 ft. variance with a 30 ft. setback to the front. Seconded by Bill Sanders. Motion passed Aye 5, Nay 0.

**F. VARIANCE 95-7** Joseph and Ann Fountain request a height variance for a proposed building at 5099 US 41 South.

Mark Maki reported that public notice has been given and that 10 letters were sent. One letter of support was received from Steve Wahlstrom. Holiday Gas called asking where is the building going to be located? The Chocoy Fire Department sent a letter referring to their equipment and fire ladder lengths indicating that they could only service the 30 ft. heights.

Paul Uimari spoke indicating that the basement was set higher to accommodate a gravity sewer system without an ejector and that the tall design was to make the building more visible.

Mark Maki questioned why is the entire building above 30 ft. with the major ridge at 31 ft. and the tower at 44 ft?

Sam Oslund spoke as a representative of the fire department, the 30' requirement could be accessible to the main ridge and perhaps while straddling the main ridge the tower could be ventilated (cutting a hole to vent off hot gasses).



The ZBA questioned the possibility of berming the soil around the base to reduce the total height of the structure. The owners indicated that the building will be in a depression and that the height was necessary in order to be seen from the highway.

Discussion ensued in reference to automatic smoke venting systems with fan ejector.

Carol Hicks questions the application, as written, did not give "practical difficulties" sufficient for granting the variance.

Mike Summers spoke indicating that granting the variance should not be given for cosmetic reasons and just what are the practical difficulty in not meeting the existing ordinance?

The applicant Ann Fountain and Architect Paul Uimari indicated that variations and changes could be made to the building design to aid in the variance request.

A motion was made by Bill Sanders to approve Variance request 95-7, Joseph and Ann Fountain for a proposed building at 5099 US 41 South to allow an approximately 25'x25' tower portion of the building over the food court a 13 ft. variance with the height of 43 ft. to the peak of the tower, no second floor platform be added to the tower, with the main ridge of the remainder of the building to be held at 30 ft. or less, and that an automatic smoke vented ejector system through the roof of the tower be installed. The practical difficulty being the need for a cupola due to the unusually wide Right-Of-Way at the intersection of US-41 and M-28, and the elevation difference between the building site and the highway. Seconded by Bob Pecotte. Motion passed Aye 5, Nay 0.

**V. UNFINISHED BUSINESS:**

- A. Update on Height Amendment still pending from the Township Board.
- B. Review of By-Laws: A copy of the ZBA "Rules of Procedure" adopted on March 25, 1993 was given to members.

**VI. PUBLIC COMMENT: NONE**

**VII. ADJOURNMENT: At 9:25 p.m.**

Respectfully submitted: Carol Hicks, Secretary

*Carol Hicks*

**CHARTER TOWNSHIP OF CHOCOLAY  
ZONING BOARD OF APPEALS  
MINUTES: 8-24-95**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:33 p.m., August 24, 1995 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bill Sanders, Bob Pecotte, Carol Hicks, and Sam Oslund. Absent Mike Summers. Staff member Mark Maki was also present.

II. **PUBLIC COMMENT: NONE**

III. **APPROVAL OF THE MEETING MINUTES OF 7-27-95.**

A motion was made by Sam Oslund and seconded by Bill Sanders, to approve the minutes of 7-27-95 as submitted. Motion passed Aye 4, Nay 0.

IV. **NEW BUSINESS:**

A. **VARIANCE 95-8** Scott Timmerman, 1979 M-28 E. A request to allow a detached garage 22 feet by 24 feet at 0 foot setback in a R-1 zone.

Mark Maki reported that public notice was given and that he sent out 9 letters of notification, including the Department of Transportation. No opposition. One letter dated Aug. 23, 1995 was received from Kelly Gustafson, District Real Estate Technician, Dept. of Transportation. The D.O.T. had no opposition with the 0 (zero) foot setback however, with the stipulation that the existing right of way line be established by survey so that no encroachments occur that could affect future construction projects. The Right of Way is 200' wide with the paved highway offset 112' +/- from the center line to Mr. Timmerman's and 88' +/- to the opposite side. The highway was built in 1965. Mr. Timmerman has an existing asphalt driveway with a turnout. The house is located 60' back from the property line. It is wooded to the West and a high hill to the East.

Bob Pecotte spoke indicating that the zero setback bothered him in that we have never granted such a large request for a variance.

Scott Timmerman spoke indicating that it was the perfect spot for the garage and that it matched with the turnout and that it would be surveyed next week.

Carol Hicks spoke against the zero setback indicating that he was familiar with the site and that a garage could be located further back with a little grade excavation.

Bill Sanders spoke against granting a full 30 foot variance with a zero setback.

Discussion ensued.

Bill Sanders made a motion to approve variance 95-8 Scott Timmerman, 1979 M-28 East to allow a 13 foot setback from the garage to the Right of Way, allowing for a 17 foot variance. Seconded by Sam Oslund. Motion passed Aye 4, Nay 0.

B. **VARIANCE 95-9** Mark Chudy, 115 Kellogg. A request to permit a 6 foot mudroom addition to an existing single family home at a 12 foot setback in an R-1 zoning district.

Mark Maki reported that in the past we have had cases along Kellogg Street allowing variance setbacks for construction and additions. The proposed addition of 6' out would leave only 12' to the Right of Way. Public notice had been given with 12 letters sent out. No opposition was reported.

Carol Hicks asked Mr. Chudy how wide was his lot and does he have adequate off-street parking to the side of the house? Mr. Chudy indicated that the lot was 150' wide and that he does indeed park to the side of the house and not in front.

A motion was made by Sam Oslund to approve variance request 95-9 Mark Chudy, 115 Kellogg St. to construct a 6' addition with a setback of 12' from the front lot line due to the fact that it would not be out of character to the neighborhood. Motion passed Aye 4, Nay 0.

**V. UNFINISHED BUSINESS:**

Mark Maki reported that a recent state court case with regards to ZBA practices ruled that when a ZBA decision is deemed final the applicant has 21 days to file an appeal. The recent court case states that the 21 days starts counting after the approval of the minutes and in our case that could be a minimum of one month after the ZBA hearing. We approve our minutes at the next ZBA board meeting. Perhaps a solution would be to have available the evening of the meeting a signature sheet that would be filled in and signed stating the outcome of the motion for the variance, thus starting the 21 day count the next day.

**VI. PUBLIC COMMENT: NONE**

**VII. ADJOURNMENT: At 8:20 p.m.**

Respectfully submitted:



Carol Hicks, Secretary

CHARTER TOWNSHIP OF CHOCOLAY  
ZONING BOARD OF APPEALS  
MINUTES: 9 - 28 - 95

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m. , September 28, 1995 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bill Sanders, Bob Pecotte, Mike Summers and Sam Oslund. Absent Carol Hicks. Staff member Mark Maki was also present.

- II. PUBLIC COMMENT: NONE

- III. APPROVAL OF THE MEETING MINUTES OF 8/24/95

A motion was made by Bill Sanders and seconded by Mike Summers to approve the minutes of the 8/24/95 as submitted. Motion passed Aye 4, Nay 0.

- IV. NEW BUSINESS:

A. VARIANCE 95-10 Jefferey Lee Alanen, 534 Co Road 480. A request for a variance from Sec. 300 to allow a single family dwelling to be setback at 10 feet in an RR-2 Zoning district at 821 Mangum Road.

Mark Maki reported that public notice was given and he sent out 7 letters of notification. One letter was received from Mr. and Mrs. Michael Lucas. The letter was read into the record by Mr. Maki. Mark continued by saying this parcel was created prior to any zoning ordinance and at one time there was a small house on parcel. This area is zoned for 5 acre parcels and this is 5 acres in size. The request for the 10 foot set back abuts the side that faces the Lucas home. Mark stated the a house cannot be built on this parcel and meet the ordinance. May be possible to shift the house on the site. 10 foot setback is the best that can be gotten on this site.

Bob Pecotte asked Mark if we had any similar cases that have come before us in the past? Mark responded by saying he does not remember having any with these circumstances. We do not have many 70 foot lots in the township. This site existed prior to the ordinance.

Mike Summers stated that the Ordinance created a non-conforming lot. Does this require the lot to meet the Ordinance? Mark responded by saying Yes, Ordinance setbacks are required.

Mark Maki raised the issue stated in the letter from the Lucas' regarding the septic system. Mark believes the County Health Department should be issuing the septic permit based on the drainage of the site and not on what the Zoning Board does with this request.

Mike Summers asked the Lucas' how far their home was from the lot line? Lucas' responded by saying about 100 feet. Mr. Lucas also explained their concern about the run off from the hill on the O'Dovero property. Mr. Summers asked Mr. Lucas if he had any concern about the request for the 10 foot side setback. Mr. Lucas replied by saying that they did not at this time. Concern was with the runoff and the septic system. Mr. Lucas indicated that the County Health Department said they would come out to the site and determine if property is suitable for septic system.

Terry Huffman Indicated that the County Health Department will be the ones to determine if a septic system can fit on this property. Mr. Lucas indicated that the Health Department told him that if the Zoning Board grants this variance the Health Department would be more likely to give a permit. Terry Huffman stated that the property is presently owned by the Miller's who live in Cincinnati, Ohio.

Bob Pecotte as the Lucas' that if the Health Department granted a septic permit would be opposed to the granting of this variance. Mr. Lucas stated that all we are looking for is that the proper permits are required and that would be OK with us.

Bill Sanders asked Mr. Alanen if there was any reason that the house could not be turned on the site? Mr. Alanen responded by saying that turning the house on the site would not make any difference as to where the septic system was located.

Bob Pecotte asked Mark again if we have had any other cases such as this and if we are not opening a can of worms if we grant this request. Mark indicated that we do not have many sites such as this in the township.

Mike Summers made a motion to approve variance 95-10, Jeff Alanen providing a variance of 18 feet on the south and 10 feet to the north line and as to a proposed garage a variance of 10 feet to the

north and 30 feet on the south, contingent, however, upon appropriate permits and approval by the Marquette County Health Department with reference to septic system and drain field. Practical difficulty being the near impossibility of building a habitable dwelling on this site with a 30 foot side setback. Further contingent that approval be granted no later than one year from today's date (September 28, 1995). Seconded by Bill Sanders, Motion passed Aye 4, Nay 0.

B. Home Occupation 95-2 Paula J. Neville, 3050 M-28 East. Home Occupation proposed - Pottery Art Studio

Mark Maki pointed out on a map he had drawn where the property was located. He stated he sent out 9 letters and put notice in the paper and received no response. Mark continued to point out the he sees 3 issues with this request. The issues are:

1. The ordinance speaks to home occupations within a dwelling.
2. We have allowed a few home occupations outside of the dwelling.
3. Our ordinance is very restrictive in nature.

Mark further stated that Paula does plan to have signs on property but does not have specifics as to size and location as yet.

Paula Neville explained her ideas about how she would like to use her signs. They would be a high quality sign and she plans to only use them for 3 months of the year.

Mike Summers asked what her intent would be for the signs in the summer? Paula indicated that she would plan to put the signs out daily and take them in at the end of the day. She further stated that she does not plan to do a big business.

Mike asked Paula what she envisioned we would see in her yard next summer. Paula stated that there would be a sign "Pottery" displayed. There would be a display shed with shelves on the inside with doors that could open when the shop is opened. This display shed would be on skids so it could be moved when necessary.

Bill Sanders asked Mark if there was a limit on the number of sheds a property could have. Mark responded by saying having the pots in a shed on display is a lot different than having them scattered all over the yard.

Mike Summers stated that in the past we have tried not have items all over the yard on display but rather on display in the home.

Mark Maki asked if she would be bringing items to some other locations for display. Paula responded that she would plan to do so.

A motion was made by Bill Sanders to approve Home Occupation request 95-2 Paula Neville, 3050 M-28 East for a Pottery Art Studio. Seconded by Sam Oslund. Approval would be subject to review upon receipt of any written complaint and would be reviewed after three years. Motion passed. Aye 4, Nay 0.

#### V. UNFINISHED BUSINESS

A. By -Laws : Mark Maki reviewed changes that we had agreed to previously. Mike Summers questioned #5 concerning proof of being an agent. Motion made by Sam Oslund and seconded by Mike Summers to approve the changes as presented by Mark. Aye 4, Nay 0.

B. Update on Zoning Violations - Township is in court regarding the Joe Gibbs property. The Jehovah Witness sign is out of compliance. The Menhennick situation continues to be a problem with vehicles parked on the highway right of way. A ticket has been issued for the semi-trailer parked on the right of way. They have sued the township for harassment of owners.

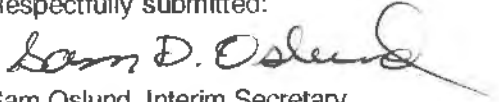
C. Update on height amendment went to the Township Board but only five members were present. Vote was 3 - 2. Board deferred issue back to Planning Commission. We are really looking at the next building season before we will see any language change.

D. Election of Chairperson and Recording Secretary. Sam Oslund made a motion for Bob Pecotte to continue as Chairperson and Carol Hicks to continue as recording secretary. Bill Sanders seconded the motion. Motion passed. Aye 3, Nay 1.

#### VI. PUBLIC COMMENT: NONE

VII. ADJOURNMENT: at 8:43 p.m.

Respectfully submitted:

A handwritten signature in cursive script, appearing to read "Sam D. Oslund". The signature is written in black ink and is positioned above the printed name.

Sam Oslund, Interim Secretary

**CHARTER TOWNSHIP OF CHOCOLAY  
ZONING BOARD OF APPEALS  
MINUTES 11-2-95**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:37 p.m. November 2, 1995 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bill Sanders, Bob Pecotte, Carol Hicks and Sam Oslund. Absent Mike Summers. Staff member Mark Maki was also present.

- II. PUBLIC COMMENT: NONE**

- III. APPROVAL OF THE MEETING MINUTES OF SEPTEMBER 28, 1995.**

A motion was made by Bill Sanders and seconded by Bob Pecotte to approve the minutes of 9-28-95 as submitted. Motion passed Aye 4, Nay 0

- IV. NEW BUSINESS:**

- A. HOME OCCUPATION 95-3** Dan Depetro, 324 Brookwood Lane, Car Audio Business.

-Mark Maki reported that public notice was given and that he has sent out 11 letters of notification. No responses or comments were received. The applicant is requesting to conduct a car audio business from which he will install and test audio systems. The work will be conducted within one room of his home and installations performed in his driveway. The two questions before the ZBA are (1) Sales of audio equipment and installation. - The amount of sales and the amount of inventory. (2) Whether or not this business would be out of character to the neighborhood.

-Carol Hicks questioned the volume and timing of outdoor sound testing of the system. What assurances does the Township have that the testing will not be too loud for the neighborhood and at what time of day will this work be performed? The applicant responded that he would be only working between the hours of 8 a.m. and 7 p.m. and that sound testing would not be of great volume.

-Sam Oslund wished to know how long does a typical installation take and would cars be kept on site overnight? The applicant indicated that it takes approximately 1-3 hours for a basic system and that the vehicle would be in and out the same day.

-Bill Sanders questioned as to how much inventory would be on hand and how often would deliveries be made to the home? Mr. Depetro indicated that he would only have a handful of units in inventory and that delivery would usually be by mail or UPS once every three weeks.

-A motion was made by Carol Hicks and seconded by Bill Sanders to approve Home Occupancy 95-3, Dan Depetro, 324 Brookwood Lane, Beaver Grove subject to the standard three year period of time and pending any written complaint. Motion passed. Aye 4, Nay 0.

- B. VARIANCE 95-11** Joseph & Selma Abel, Sec 208 - variance to allow accessory structure on lot at 2354 M-28 East.

-Mark Maki reported that public notification had been given and that 11 letters of notification had been mailed. Two people called back with questions about the variance request. One inquiry was in reference to what type of Livestock was to be housed on the property. Mr. Maki informed the Board that he then called Mr. Abel in Benton Harbor and found out that it was to be a specialty breed of chickens and that only a few would be kept for their eggs. The property is zoned RR-2. The question before the ZBA is to

allow an accessory building (pole structure) to be built before the house. Normally, the house is build first as the primary structure before one is allowed to build an accessory building.

-Bill Sanders commented on the Planning Commission's stand and that perhaps the zoning could someday be changed allowing for conditional use permits to cover this type of circumstance.

-Carol Hicks questioned that the size of the building was to be 30' x 64' just what was to be the height of the building? Mark Maki indicated that this was zoned RR-2 and that the height could be 30'.

-Sam Oslund questioned if he were to store recreational items or timber harvesting equipment would he have to apply for a variance. Mark Maki indicated that the zoning within this district would have allowed for such a designation however, due to the fact that Mr. Abel requested to store his materials and tools while building his new home, the variance was necessary.

-Carol Hicks question that due to the fact that Mr. Abel was not present who was his designated "limited power of attorney"? Mark Maki indicated that he had on file a letter designating his son Robert Abel as limited power of attorney.

-Bob Pecotte asked for a clarification in that the variance was a request to deviate from sections 101 and 208.

-A motion was made by Sam Oslund and seconded by Bill Sanders to approve variance request 95-11, Joseph & Selma Abel, 351 Kublick Drive, Benton Harbor, Mi. for their property located at 2354 M-28 East, to allow the secondary structure (Pole Barn) to be built prior to the house as is required under ordinance Sec. 101 and 208 with the condition that the house construction be started on or before January 1, 1997. Motion passed. Aye 4, Nay 0.

-The ZBA wants Mark Maki to send a memo to the Planning Commission suggesting that this conditional use concept be reviewed.

**V. UNFINISHED BUSINESS:**

Mark Maki gave ZBA members a draft copy of the Planning Commission report dated Monday, October 9, 1995 showing some of the suggested changes and language that has been discussed in the past. The Township Board is yet to act on some of the proposed changes.

**VI. PUBLIC COMMENT: NONE**

**VII. ADJOURNMENT: AT 9:20 p.m.**

**RESPECTFULLY SUBMITTED:**



**CAROL HICKS, SECRETARY**



**CHARTER TOWNSHIP OF CHOCOLAY  
ZONING BOARD OF APPEALS  
MINUTES: 12-7-95**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:31 p.m., December 7, 1995 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bill Sanders, Mike Summers, Bob Pecotte, Carol Hicks, and Sam Oslund. Staff member Mark Maki was also present.

- II. PUBLIC COMMENT: NONE**

- III. APPROVAL OF THE MEETING MINUTES OF 11-2-95**

A motion was made by Sam Oslund and seconded by Bill Sanders to approve the minutes of 11-2-95 as submitted. Motion passed Aye 5, Nay 0.

- IV. NEW BUSINESS:**

**A. VARIANCE 95-12** John Hlinak, 234 Silver Creek Road. Request to place a Mobile Home on a lot in R-4 which is not a licensed mobile home park.

-Mark Maki reported that notification had been sent and that public notification had been published. One letter opposing the variance request was received and read into the record from George and Nan Schmidt, 232 Silver Creek Road owners of Bide-A-While trailer park. It's a two part issue in that the trailer park is nonconforming in that our zoning requires a 20 acre parcel for a park and the parcel is only approximately 10 acres. There are 60 trailer sites with park expansion south of Silver Creek with approximately 30 more sites. The second part of the issue is that Mr. Hlinak's house and A-Frame were one parcel prior to the zoning.

-Prior to the zoning in 1977 Mr. Hlinak put the entire parcel under one lot (house, A-frame, and trailer park). In 1988 Mr. Hlinak surveyed off the house and A-frame and sold the park keeping the house parcel. He is in essence trying to recreate that was there prior to the zoning. Mark Maki reported that there is no other parcel in the township like it. The first variance request is to allow the house lot to be permitted in R-4 district of less than 20 acres.

-Bob Pecotte questioned what are his options? Mark Maki responded that he could try to have it rezoned to something other than R-4 or a variance could be granted.

-Mr. Hlinak spoke indicating that he is in litigation with George and Nan Schmidt with a dispute of the road ownership.

-Mike Summers spoke indicating that the division of the park and the house creates a rather unique situation within a R-4 district. This is a very specific zoning district that is of nonconforming due to it's size.

-Sam Oslund questioned if we grant this variance can he then place another mobile home on the lot? The question was answered in that it takes three or more mobile homes to make a park. Presently, Mr. Hlinak has his framed house and two A-framed mobile homes on this lot.

-Mike Summers asked if it would be more practical to have the planning commission to rezone the house lot rather than have it remain within the R-4 trailer park designation? Discussion ensued in reference to the Church property and what has happened along Willow Road. Mike Summers indicated that it was a self created issue when the house lot was parceled off from the trailer park.

-A motion was made by Mike Summers to approve variance request 95-12 of applicant Mr. John Hlinak from the requirement of zoning district R-4's 20 acre minimum. The rational for this decision is that both the home and the park were at one time used as one and were

continued in use both before and after the adoption of the ordinance as one. The practical difficulty is that the home is now in the middle of an R-4 parcel and is not connected to any other part therefore, this seems to be the most practical means of solution. Seconded by Bill Sanders. Motion passed Aye 5, Nay 0.

**B. HOME OCCUPATION 95-4** Douglas Evans 356 Co. Rd. 480. Request for Fine Furniture/Woodworking occupation.

-Mark Maki reported that public notification had been published and that letters were sent out to the surrounding area. No correspondence was received back. The application must meet the big three questions: What is the volume of business, will it generate undue noise, and what are the traffic impact upon the neighborhood. The owner wished to use his garage as a workshop to perform his business.

-Mike Summers asked Mr. Evans if he runs lots of power equipment and at what hours. Mr. Evans responded that he has planners and saws and that he operated them for approximately 2-3 hours/day and 2-3 times per week. They would be in operation only during normal daylight hours. Mr. Evans also indicated that he has spoken with his neighbors asking them if there was any noise problems and that they were satisfied with his operation.

-The traffic issue is that there is only 1-2 cars per week and that he delivers and picks-up all items. There are no displays nor signs.

-A motion was made by Bill Sanders to approve Home Occupation request 95-4 for Douglas Evans to operate Fine Furniture/Woodworking business under the standard stipulation that it is for a three year period and pending any written complaints. Seconded by Sam Oslund. Motion passed Aye 5, Nay 0.

**V. UNFINISHED BUSINESS:**

1. Update on Garage/Height Amendment. This issue is presently being reviewed by the township fire department.
2. Update on Pole Building/Garages. The Planning Commission was to look at conditional use and a solution. This is presently under review. It was indicated that as the Planning Commission sends items to the Township Board they often have questions and returns the item back to the Planning Commission, all of which takes time. Sometime an overall review of the ordinance would be in order.

**VI. PUBLIC COMMENT: NONE**

**VII. ADJOURNMENT: At 8:31 p.m.**

RESPECTFULLY SUBMITTED:



CAROL HICKS, SECRETARY